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"RCRA Compliance Unit"
"OWCM"

October 30, 1996

MR MARK ROGERS
VAN WATERS AND ROGERS
3950 NW YEON AVENUE
PORTLAND OREGON 97210

RE: Multnomah County
Van Waters and Rogers
ORD 009227398
NWR-HW-096-091

NOTICE OF NONCOMPLIANCE

CR 7378
10/30/96
Ja
Oregon

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

NORTHWEST REGION

THE
COPY

Dear Mr. Rogers:

On October 18, 1996, representatives from the Department of Environmental Quality, (DEQ) performed an inspection of your facility located at 3950 NW Yeon Avenue in Portland, Oregon. As a result of that inspection the following violations were found:

VIOLATION 1: 40 CFR 262.34 (a) (2) adopted by OAR 340-100-002 by failing to date a container with hazardous waste with an accumulation start date.

VIOLATION 2: 40 CFR 262.34 (a) (3) as adopted by OAR 340-100-002 by failing to label a drum storing hazardous waste with the words, "Hazardous Waste".

There was one drum containing hazardous waste located in a maintenance area. This drum was identified during the inspection as containing a solid waste contaminated with solvents. The facility corrected violation 1 and 2 at the time of the inspection.

VIOLATION 3: 40 CFR 268.7 (a) (4) as adopted by OAR 340-100-002 by not retaining copies of several Land Disposal Restriction Forms, LDR.

There were several manifests missing LDR forms. The manifest document numbers are listed in the attached inspection report.

VIOLATION 4: ORS 468.095(1) by failing to supply records requested on the waste determination for the site groundwater.

It is likely that these record are available at the facility, however, because of a large volume of records related to the site cleanup these records could not be located during the inspection.

VIOLATION 5: OAR 340-102-011 Van Waters and Rogers failed to adequately perform a hazardous waste determination on three waste streams which were generated by the facility. Those waste streams are: spill cleanup

John A. Kitzhaber
Governor



2020 SW Fourth Avenue
Suite 400
Portland, OR 97201-4987
(503) 229-5263 Voice
TTY (503) 229-5471
DEQ-1

waste generated by the facility's general operation, waste soil collected during a sewer investigation project, and soil excavated during the installation of a soil vapor recovery system. Below are the details outlining these waste streams:

Spill clean up material: During the site inspection there were some spill pads observed in the trash in the solvent packaging area. The manifest records were reviewed and there was no indication through the records that this waste stream was being managed as a hazardous waste at the facility. There were no observations made that this waste was being collected on-site. The facility is a Large Quantity Generator, LQG and cannot place this waste stream in the garbage it is a hazardous waste.

Soil from sewer project: There were five yards of soil collected in a roll-off box at the facility from a sewer project. I spoke with the facility's consultant regarding the soil. He said that the waste was generated in August and that samples were collected, however, the status of the data was unknown. These sample results should not take two months to receive from the lab. Additionally no documentation was provided with respect to the active management of this waste stream such as chain-of custody or, preliminary data. The roll-off container was not marked, "waste determination being performed" or dated with an accumulation start date.

Soil from the trenching Project: There was some analytical data supplied with this soil however, based on the information received there is a concern with respect to how the determination was done and if it was correct. There were 167 tons of soil excavated from the site to put in a soil vapor recovery unit to do an on-site treatment of soils. These soils were shipped off-site as non RCRA waste to Chemical Waste Management in Arlington. If these soils had detectable levels of the solvent contamination listed above health based standards, the soils would have to be managed differently. This waste stream is banned from land disposal and would require incineration.

Based on the preliminary data that I have reviewed in the DEQ files, historical data shows that there is both F-listed and U-listed contamination present in surface soil samples taken at the site in 1987. There had been no removal or treatment of these soils until this trenching project to put in this treatment system. The records review did not indicate that the contaminated soils were segregated from the non-contaminated soils. If a hazardous waste is mixed with a nonhazardous waste then the whole mixture becomes a hazardous waste.

It appears that these waste soils were not characterized correctly for the following reasons: The lab data indicates that composite samples were collected. The requirements outlined in SW 846, state that these soil samples need to be discrete samples and statistically representative of the waste stream. Discreet samples need to be taken so that the samples are not a dilution of the waste stream. The samples were tested using 1311, followed by 8240, this test method was also not an appropriate method for testing for F-listed and U-listed solvents. This test method effectively diluted the sample results even more than the sampling technique. That testing procedures is for characteristic waste and uses a twenty to one dilution of the sample in the test method. With these constituents a total analysis should have been done. There is analytical data for the filters used in the vapor recovery system and there is a substantial recovery of solvents in these filters. They are being disposed of off-site as F-listed and U-listed solvents and are

October 30, 1996

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incinerated. Considering that this is a soil treatment system it would be logical to assume that the soil is contaminated with the same waste streams and should have been managed as hazardous waste.

I spoke with representatives of Region 10 EPA and I have been informed that this removal project and the soil vapor recovery unit were done without their oversight. The soil removal and waste determination was done without their knowledge or approval as well. In the original cleanup order Van Waters and Rogers is required to comply with the requirements of 40 CFR 262.34 generator requirements which include performing a waste determination.

These violations include Class I violations and are considered to be serious violations of Oregon Environmental Law. A determination will be made based on the information received as to whether or not the Department will proceed with a more formal enforcement action. Formal enforcement actions may include civil penalty assessments. Civil penalties can be assessed for each day of violation.

To address these violations the following must be done by the dates listed below:

Violations 1 and 2 were corrected at the time of the inspection.

Violation 3. I have received a response dated October 24, 1996 regarding the LDR forms. All copies have been received except one. On copy 91474 it is stated that the waste did not have RCRA waste codes, therefore, the waste did not need an LDR form. As I recall this was a lab pack and Texas waste codes were used in lieu of federal codes on the manifest, however, the lab pack listed the federal waste codes. If this was the case then there needs to be an LDR form, and the federal codes should be referenced in section J of the manifest, instead of on a corresponding lab pack list. Please recheck the lab pack list. If there are federal waste codes then you will need to fill out an LDR form and send it to Texas. Please send me a response as to the outcome and a copy of the LDR form if it is applicable. In the future this is how lab packs need to be handled. Submit this information to me within fifteen days of this Notice.

Violation 4. This information has been submitted to me. It appears that the groundwater was a hazardous waste and was managed accordingly.

Violation 5. The waste streams are listed below with the corrections for each:

Spill Waste: please submit photodocumentation to demonstrate that this waste stream is being collected and properly managed. This should be a photograph of a satellite collection container for this waste stream in the solvent area. Submit this information to the Department within fifteen days of this Notice.

Sewer Removal Waste: This information was submitted to me in your response. It appears that this data had been received by your remediation group, however, that information was not relayed to you. Please submit photodocumentation that this container is properly labeled and dated. The accumulation start date should be August 6, 1996. You will also need to submit a hazardous

October 30, 1996

Page 4

waste manifest for this waste to me by November 6, 1996. Please be aware that this waste cannot go to the Arlington Chemical Waste Management landfill. This waste would require incineration.

The Soil vapor recovery unit soil: Please submit information regarding the sampling. For example, how many sampling points were used to make the composite samples; a map of the facility showing where these soils were removed with a reference of their relationship to soil borings; monitoring wells; the historical distillation area and the current warehouse; the information regarding the depth of the soil removed; copies of all manifests, or bills of lading related to the removal of these soils. I currently have the following manifests 94570, 94510, 94520, 94530, and 94560 (the last two numbers cannot be read this is a guess), and I will not need copies of those. If there are any other manifests for this waste stream please submit copies to the Department along with any other reasoning or explanation that the facility may have as to why a determination was made that these soils were non-hazardous waste. This particular violation and waste stream is considered the most serious violation found at the facility and may result in a referral to the enforcement section. You will receive an additional Notice of Noncompliance if it is warranted to notify you of other violations and the referral to enforcement. Please submit this information to my attention within fifteen days of this Notice.

In closing I would like to thank the facility for its timely response regarding the issues found at the site. One other recommendation I have is that the facility appears to be acting as two separate entities, the site cleanup and the operations. The DEQ looks at this facility as one location. It is extremely important that the environmental person be aware of the activities that are taking place as a result of the site cleanup. The majority of the violations observed were the result of information not being relayed to that person at the facility. If you have any question or concerns regarding this Notice please feel free to contact me at 229-5543.

Sincerely,



Rebecca Paul
Environmental Specialist
Northwest Region

✓Cc: Al Odmark: Region 10 EPA
Jim Vilendre:WMC
Enforcement Section: DEQ

Enclosures: Inspection report

DR 7391
2-11-91
5a

HELLER, EHRMAN, WHITE & MCAULIFFE
ATTORNEYS

333 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104-2878
FACSIMILE (415) 772-6268
TELEPHONE (415) 772-6000

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

6100 COLUMBIA CENTER · 701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7098
TELEPHONE (206) 447-0900 · FACSIMILE (206) 447-0849

550 WEST 7TH AVENUE
ANCHORAGE, ALASKA 99501-3571
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601 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017-5758
FACSIMILE (213) 614-1868
TELEPHONE (213) 689-0200

February 11, 1991

1201 PACIFIC AVENUE
TACOMA, WASHINGTON 98402-4308
FACSIMILE (206) 572-6743
TELEPHONE (206) 572-6666

Max M. Miller, Esq.
Tonkon, Torp, Galen, Marmaduke & Booth
1600 Pioneer Tower
888 S.W. Fifth Avenue
Portland, Oregon 97204-2099

Re: Access agreement between Van Waters & Rogers and
American Steel

Dear Mr. Miller:

Enclosed for your records is a copy of the fully executed agreement between Van Waters & Rogers ("VW&R") and American Steel regarding access to carry out sampling at the American property. VW&R will be in contact with American in the near future, as you requested in your letter of February 1, 1991, regarding the specific locations and times for this sampling.

We look forward to working with American to assure a successful sampling program.

Yours very truly,

HELLER, EHRMAN, WHITE & MCAULIFFE

David M. Heineck

David M. Heineck

RECEIVED
FEB 12 1991

Enclosure

cc (w/enclosure):

Richard A. McAllister, EPA Office of Regional Counsel

OFFICE OF REGIONAL COUNSEL
EPA - REGION 9

AGREEMENT FOR SITE ACCESS

THIS AGREEMENT is made and entered into by and between American Industries, Inc. ("American"), an Oregon corporation, and Van Waters & Rogers Inc. ("VW&R"), a Washington corporation.

RECITALS:

A. Effective June 20, 1988, VW&R and the United States Environmental Protection Agency ("EPA") executed an Administrative Order on Consent under the Resource Conservation and Recovery Act ("RCRA") to perform a facility investigation and corrective measures study at the VW&R property located at 3950 N.W. Yeon Avenue in Portland, Oregon. Section 29 of the order provides as follows:

To the extent that work required by this Consent Order must be done on property not owned or controlled by VW&R, VW&R shall use its best efforts to obtain site access agreements from the present owner(s) of such property no later than two weeks prior to the scheduled commencement of work.

B. American owns property in Portland, Oregon adjacent to the VW&R property. At EPA's direction, VW&R has requested access to American's property to drill two groundwater monitoring wells identified as proposed wells SMW-18 and SMW-19. VW&R also seeks access to continue to take samples from existing monitoring wells SMW-12 and SMW-13 that are located on American's property.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Purpose of Agreement. The purpose of this Agreement is to provide the terms and conditions under which VW&R may enter, construct monitoring wells and obtain samples from American's property to conduct the facility investigation and corrective measures study required by the Administrative Order on Consent.

2. Access. American shall grant VW&R access to American's property to construct two monitoring wells to be designated SMW-18 and SMW-19 in the locations designated on the map attached hereto as Exhibit A, and to take ground water samples from wells SMW-12, SMW-13, SMW-18 and SMW-19, on the terms and conditions set forth in this Agreement. Said access shall be solely for the purpose of performing the facility investigation and corrective measures study required by the Administrative Order on Consent.

3. Prior notice of access. VW&R shall notify American at least two weeks in advance of any entry by VW&R onto American's property to carry out the well construction and sampling covered by this Agreement. Such notice shall state the purpose of the entry, the work to be performed, the persons who will perform the work and the time during which such persons shall be on American's property.

4. Right to refuse access. American may refuse to allow the planned entry, provided that it agrees to grant VW&R access at another reasonable time. American shall ensure that VW&R receives notice of any such refusal at least five days in advance of the planned entry. If American fails to give VW&R notification at least five days in advance, American shall pay VW&R for all costs incurred incident to preparing for well construction and/or sampling, including but not limited to contractor or subcontractor charges that result from American's late notification; however, American will not be obligated to pay such amounts if the late notification is caused by events that occur without the fault and beyond the control of American.

5. Applicability of Agreed Order on Consent. Nothing in this Agreement is intended to render the Agreed Order on Consent applicable to American or to any of its employees, directors, officers or shareholders.

6. Compliance with applicable laws and company rules. VW&R and its contractors and subcontractors shall comply with all applicable laws, regulations and EPA guidance in carrying out the well construction and sampling described in this Agreement. VW&R and its contractors and subcontractors also shall comply with all applicable company rules of American from the date that VW&R receives such rules in writing from American, provided that such rules do not conflict with any provisions of this Agreement or otherwise frustrate the purposes of this Agreement.

7. Response to any releases caused by the well construction and sampling. VW&R shall immediately notify American of any releases of petroleum products, hazardous substances or other contaminants made onto or beneath American's property caused by the acts or omissions of VW&R or its contractors or subcontractors in carrying out the well construction and sampling described in this Agreement. VW&R

shall remove any and all such releases from American's property, at no expense to American, as soon as practicable.

8. Indemnification. VW&R shall indemnify and hold American and the American property harmless from and against any injury, damages, claim, lien, cost and/or expense (including attorneys' fees) incurred by, or claimed against, American or the American property by reason of the acts or omissions of VW&R or its contractors or subcontractors in carrying out the well construction and sampling described in this Agreement.

9. Notices. All notices, demands and requests required or made under this Agreement shall be in writing and shall be made as follows:

To American: Mr. Neil R. Thornton, President
American Industries, Inc.
4033 N.W. Yeon Street
P.O. Box 10086
Portland, Oregon 97210

With a copy to: Max M. Miller, Jr.
1600 Pioneer Tower
838 S.W. Fifth Avenue
Portland, Oregon 97204

To VW&R: Wayne Grotheer
Director of Environmental Projects
Van Waters & Rogers, Inc.
801 Second Avenue, Suite 1600
Seattle, Washington 98104

With a copy to: Susan Preston, Esq.
Senior Corporate Counsel
Univar Corporation
801 Second Avenue, Suite 1600
Seattle, Washington 98104

Either party may change the above designations by written notice to the other party.

10. Attorney fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as a court of competent jurisdiction may adjudge reasonable as attorneys' fees at trial, on appeal and on any petition for review, in addition to all other sums as may be provided by law.

11. Effect of Agreement. Nothing in this Agreement shall constitute an admission of fact, responsibility, fault or liability of any kind. The parties reserve all rights among

themselves and against others to seek indemnification, recovery or contribution for all damages, liabilities, costs, expenses or fees associated with conditions at their properties. This paragraph shall not be construed as a limitation upon the terms and conditions set forth in this Agreement.

12. No partnership. Nothing contained herein shall be construed to create a partnership, joint venture or other business relationship between the parties.

13. Enforceability by third parties. This Agreement is expressly not intended for the benefit of any third party and is expressly not enforceable by any third party.

14. Parties bound. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Neither party may assign the rights and obligations provided for herein without the prior written consent of the other party.

15. Entire agreement. This Agreement contains the entire understanding of the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter of this Agreement.

16. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, all remaining provisions of the Agreement shall remain in full force and effect.

17. Term of agreement. The term of this Agreement shall be for two years from the effective date, unless extended by a written amendment signed by both parties.

18. Effective date. This Agreement shall be effective as of the date that both parties have signed and dated the Agreement as indicated below.

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IN WITNESS WHEREOF, the parties hereby execute this Agreement.

AMERICAN INDUSTRIES, INC.

By: *[Signature]*

Date: 1/30/90

VAN WATERS & ROGERS INC.

By: *William A. Butte*

Date: 2-8-91



OR 7398
5-15-87
5a



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
SEATTLE, WASHINGTON 98101

May 15, 1987

REPLY TO
ATTN OF:

SO-125

MEMORANDUM

SUBJECT: Certification by Administrative Law Judge
In Re Van Waters & Rogers, RCRA Docket 1086-01-01-3008

FROM: Patricia M. Sugiura *P.M. Sugiura*
Hearing Clerk

TO: Chief Judge Gerald Harwood
Office of Administrative Law Judges (A-110)

Attached is a copy of Administrative Law Judge Thomas B. Yost's May 11, 1987, Certification that the services of an Administrative Law Judge are no longer required in the above-referenced case.

Attachment

cc (w/attach.):
James D. Sherman/James L. Fletcher
D. Henry Elsen
cc (w/o attach.):
ALJ Thomas B. Yost

CERTIFICATION OF SERVICE

I hereby certify that copies of the foregoing were mailed on this date to:

James D. Sherman, Esquire
James L. Fletcher, Esquire
Shidler, McBroom, Gates & Lucas
3500 First Interstate Center
Seattle, Washington 98104

A copy was hand-delivered to the EPA Attorney of Record in Region 10, D. Henry Elsen.

Patricia M. Sugiura
Patricia M. Sugiura
Hearing Clerk, EPA Region 10

FILE
COPY



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

RECEIVED

MAY 15 1987

HEARINGS CLERK
EPA-REGION X

OFFICE OF
THE ADMINISTRATOR

IN RE

VAN WATERS & ROGERS DIV.
OF UNIVAR CORP.

Respondent


)
) 1086-01-01-3008
)
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CERTIFICATION BY ADMINISTRATIVE LAW JUDGE

THIS MATTER having come on before me, the undersigned Administrative Law Judge, by the stipulation of the parties set forth above, now, therefore,


IT IS HEREBY CERTIFIED: that the foregoing stipulation has been received and duly noted, and that the services of an Administrative Law Judge are no longer required.

DATED: May 11, 1987


Thomas B. Yost
Administrative Law Judge

CERTIFICATION OF SERVICE

I hereby certify that the original of the foregoing was served on the Regional Hearing Clerk, USEPA Region X, 1200 Sixth Avenue, Seattle, WA 98101 for her service on the parties to this proceeding. Service by 1st class U.S. mail. Dated in Atlanta, Georgia this 11th day of May 1987.


Sandra A. Beck, Legal Technician

OR 7348
5-1-87
5a

RECEIVED

MAY 5 1987

HEARINGS CLERK
EPA-REGION X

FILE COPY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
Seattle, Washington

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY,

Complainant,

v.

VAN WATER AND ROGERS, INC., formerly
VAN WATERS AND ROGERS, a Division
of Univar Corporation,
ORD009227398

Respondent.

Docket No. 1086-01-01-3008

CONSENT AGREEMENT AND
FINAL ORDER

I. JURISDICTION

1. Jurisdiction to issue this Compliance Order exists under
42 U.S.C. § 6928.

2. The Complainant is the United States Environmental Protection
Agency ("EPA").

3. The Respondent is Van Waters and Rogers Inc., formerly Van
Waters and Rogers, a division of Univar Corporation ("Respondent" or VWR).
The Respondent is the owner and operator of a facility at 3950 N.W. Yeon
Avenue, Portland, Oregon ("the facility").

4. Pursuant to RCRA Section 3008(a), 42 U.S.C. § 6928(a), EPA is
authorized to take enforcement action within states granted authority to

1 manage hazardous wastes under RCRA § 3006, 42 U.S.C. §6926, regarding
2 activities which constitute violations of any requirement of the federally
3 authorized state program. As the State of Oregon Department of
4 Environmental Quality ("DEQ") received such authorization in January 1986,
5 noncompliance with the requirements of the approved Oregon program
6 constitutes a violation of both state and federal requirements.

7 5. EPA has notified the State of Oregon of this action as
8 required under RCRA § 3008(a)(2), 42 U.S.C. § 6928(a)(2). DEQ has deferred
9 to EPA to initiate this enforcement action pertaining to any of the
10 violations cited in this Order.

11 6. On the basis of information received by the Regional
12 Administrator, much of which is set forth below, EPA hereby determines that
13 the Respondent, a "person" within the meaning of 42 U.S.C. § 6903(15), has
14 violated one or more requirements of RCRA Subtitle C, 42 U.S.C. Chapter 82,
15 Subchapter III and the regulations promulgated thereunder.

16
17 II. FINDINGS OF FACT

18 1. On or about September 18, 1980, Respondent submitted to EPA a
19 "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its
20 Portland, Oregon facility located at 3950 N.W. Yeon Avenue pursuant to RCRA
21 § 3010(a), 42 U.S.C. § 6930(a). Respondent received EPA identification
22 number ORD 009227398. That notification identified Respondent as the owner
23 and operator of the facility. On or about September 26, 1980, Respondent
24 submitted Part A of its permit application to EPA identifying Respondent's
25 operation of the facility for the storage and treatment of F001 and F002
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1 listed hazardous wastes. This Part A application was later modified by a
2 July 13, 1981 submittal in which the only hazardous waste process identified
3 was storage.

4 2. On or about June 4, 1981, Respondent was issued a Hazardous
5 Waste Treatment-Collection Site License (HWTF-5) by the Oregon Department of
6 Environmental Quality. This license, which expired on January 30, 1986, was
7 issued for the following hazardous waste treatment and collection activities:

8 TREATMENT: perchloroethylene; methylene chloride; and 1,1,1,
9 trichloroethane; and

10 COLLECTION SITE: toxic hazardous waste; corrosive hazardous
11 waste; and ignitable hazardous waste.

12 3. On or about September 23, 1985, the DEQ issued Respondent a
13 Notice of Violation and Intent to Assess Civil Penalty for, inter alia,
14 having an inadequate closure plan. In response to this notice, the
15 Respondent submitted a revised closure plan in May of 1986.

16 4. Based on EPA's review of Respondent's revised closure plan
17 dated May 1986, and DEQ's comments on the plan, the plan does not identify
18 the steps necessary to completely close the facility, in violation of
19 OAR 340-105-010(6)(b) [which in this instance refers to 40 C.F.R.
20 § 265.112(a)], as described below:

21 a. There was no discussion in the plan on sampling the
22 underlying soils in storage areas where cracks are present in the pad. The
23 statement, "[S]urface sampling of the area will then be conducted" is the
24 only reference in the plan to confirm that the storage pad will be tested to
25 assure that clean closure has been achieved. If hazardous waste
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1 constituents remain after closure, then the facility has failed to achieve
2 clean closure and the hazardous waste remaining must be treated as a land
3 disposal facility subject to closure and post-closure requirements as a
4 landfill.

5 b. The description of the parameters and sampling
6 procedures to be followed to confirm that releases to soil and/or
7 groundwater have not occurred is also not contained in the plan. Instead,
8 only a reference to Respondent's waste analysis plan is made concerning the
9 analysis and testing of decontamination wash water. This reference does not
10 identify if the analysis to be performed is for all hazardous waste
11 constituents, for example, the parameters listed in Table 4 of Respondent's
12 November 1985 waste analysis plan. Also, there is no discussion in the
13 closure plan concerning action levels for cleanup. For example, since the
14 facility handled listed wastes, the detection of any parameter listed at
15 Table 4 would require additional decontamination and/or waste removal as the
16 constituent detected would be the dilution product of a spill residue of
17 listed hazardous waste and would itself be hazardous.

18 c. The closure plan contains a statement as follows: "If
19 there is evidence of any spills or leaks from the facility, samples will be
20 taken and analyzed to determine the extent of contamination in the soil, and
21 if necessary, in groundwater." As spills have been identified at the
22 facility by Respondent, the closure plan must include a plan for the
23 monitoring of soil. The closure plan must also include a plan for
24 monitoring of groundwater in the event soil contamination is detected at
25 either the 10.0 to 12.0-foot range or 15.0 to 17.0-foot range, or if very
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1 high levels of contamination are found in the sample from the 0.5 to
2 2.5- foot and 5.0 to 7.0-foot sample foot intervals. In Respondent's letter
3 dated April 17, 1986, to DEQ, Respondent confirmed at least three (3) spills
4 at the facility. Incident number 1 was a small spill of methylene chloride
5 which occurred during a transfer operation on August 15, 1980; the second
6 incident was on September 8, 1983, and involved the spill of approximately
7 515 gallons of trichloroethylene (TCE); and the third spill is believed to
8 have occurred in 1979 and involved an acid release. Apparently, the third
9 spill was an inadvertent continuing release which resulted in damage to a
10 sanitary sewer. To prevent against future problems under supervision of the
11 city of Portland, Van Waters and Rogers replaced several hundred feet of
12 sanitary sewer in 1985.

13 5. In addition to the deficiencies above, the closure plan does
14 not include an estimate of the expected year of closure nor does it include
15 a schedule for final closure activities, both in violation of
16 OAR 340-105-010(6)(b) which refers to the requirements of 40 C.F.R.
17 § 265.112(a)(4) in this case.

18 6. After receipt of the initial complaint and compliance order
19 in this matter, Respondent submitted a revised closure plan which addresses
20 the deficiencies noted above.

21 22 III. CONCLUSIONS OF LAW

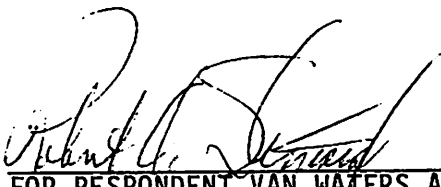
23 Based upon the matters set forth above, Respondent has violated
24 OAR 340-105-010(6)(b) and therefore, violated RCRA Subtitle C, 42 U.S.C.
25 Chapter 82, Subchapter III. Accordingly, the issuance of this Order is
26 authorized by RCRA Section 3008(a), 42 U.S.C. § 6928(a).

TV AGREEMENT

1. Respondent admits the jurisdictional allegations contained in paragraph 1 through 5 of this Consent Agreement and Final Order. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Agreement and Order. However, to resolve this matter, Respondent has agreed to abide by the Final Order contained in this document. Respondent waives its right to an administrative hearing on this matter, and waives any right of appeal or challenge of this Consent Agreement and Final Order.

2. EPA will use its best efforts to ensure the prompt formal approval of the closure plan dated December 31, 1986, by the State of Oregon Department of Environmental Quality.

Dated: 4/23/87


FOR RESPONDENT VAN WATERS AND
ROGERS, INC., formerly VAN WATERS
AND ROGERS, a division of Univar
Corporation

Dated: 11/22/87


FOR COMPLAINANT UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

FINAL ORDER

1. Based upon the foregoing Findings of Fact and Conclusions of Law, which are incorporated herein by reference, which the Respondent neither admits nor denies, Respondent Van Waters and Rogers, Inc., formerly Van Water and Rogers, a division of Univar Corporation, shall modify the

1 December 31, 1986 closure plan to address EPA's and DEQ's comments, if any,
2 developed as a result of the public comment period held by EPA and DEQ
3 pursuant to 40 C.F.R. § 265.112(d), and shall implement the closure plan for
4 the VWR facility at 3950 N.W. Yeon Avenue immediately upon formal approval
5 of this plan by the State of Oregon Department of Environmental Quality,
6 according to the terms and schedules contained therein.

7 2. Upon completion of the closure plan, Respondent shall notify
8 EPA of its completion and certification, by submission of a letter to:

9 Kenneth D. Feigner, Chief
10 Waste Management Branch (HW-112)
11 Environmental Protection Agency
12 1200 Sixth Avenue
13 Seattle, Washington 98101

14 Dated this 1st day of May, 1987.

15 Charles E Findley
16 CHARLES E. FINDLEY, Director
17 Hazardous Waste Division
18 EPA Region 10
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REGIONAL AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

July 15, 1986

REPLY TO
ATTN OF: M/S 613

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Daniel McCaskill
Vice President, Distribution
Systems & Environmental Affairs
2600 Campus Drive
San Mateo, CA 94403

Re: EPA v. Van Waters and Rogers, a Division of Univar Corporation
Docket Nos. 1086-01-01-3008, 1086-01-01-3013

Dear Mr. McCaskill:

The enclosed part 22 rules were inadvertently not served on you at our July 11, 1986 meeting. Any time limits in the complaint or investigatory order will not start running until your receipt of these rules.

Sincerely,

D. Henry Elsen
Assistant Regional Counsel

Enclosure

cc (w/enclosure): Jim Fletcher, Attorney

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7/15/86

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue,
Seattle, Washington 98101

United States Environmental
Protection Agency,
Complainant,
vs.
Van Waters and Rogers, Division
of Univar Corporation
ORD009227398
Respondent

) NOTICE OF LEGAL PROCEEDINGS,
) NOTICE OF OPPORTUNITY FOR
) HEARING: AND NOTICE OF
) OPPORTUNITY FOR SETTLEMENT
) MEETING
)
) IN REFERENCE TO THE FOLLOWING
) ORDERS:
) EPA No. 1086-01-01-3008
) EPA No. 1086-01-01-3013

THE DIRECTOR, HAZARDOUS WASTE DIVISION, EPA REGION 10 TO THE FOLLOWING
RESPONDENT: Van Waters and Rogers, Division of Univar

YOU ARE HEREBY GIVEN NOTICE AS FOLLOWS:

I. Administrative proceedings have been commenced against you. A Regulatory Order is hereby issued to you by the U.S. Environmental Protection Agency ("EPA"), pursuant to the "Consolidated Rules of Practice" (40 CFR Part 22). An order to develop and implement a proposal for monitoring, analysis, and testing is also hereby issued by EPA, pursuant to 42 U.S.C. §6934.

II. You are hereby NOTIFIED of, and served with, the ATTACHED TRUE COPIES of documents filed in these proceedings. Both contain governmental commands of EPA which must be obeyed by you. One requires you to comply with the applicable rules and regulations for the closure of your hazardous waste management facility, and the second requires that you carry out such monitoring, testing, analysis, and reporting as necessary to ascertain the nature and extent of the hazard that exists at your facility due to the release and/or presence of hazardous waste at your facility.

NOTICE OF PROCEEDINGS, Page 1 of 3

1 III. The signed originals of the attached documents are filed with the
2 EPA Regional Hearing Clerk, in Room 1802, Park Place Bldg., 1200 Sixth
3 Avenue, Seattle, King County, Washington, 98101, Phone No. (206) 442-1141.

4 IV. APPEAL PROCEDURES

5 EPA REGULATORY ORDER

6 A. If you choose to appeal the Regulatory Order you must file an
7 "ANSWER" with the EPA Hearing Clerk (address above) within 30 days of
8 receipt of the Regulatory Order.

9 B. Any such "ANSWER" you file must: (1) request a hearing to
10 review the Regulatory Order or such a hearing on the Order is deemed
11 waived; (2) contain clear and direct statements of what specified
12 portions, if any, of the determinations in said Order are materially
13 incorrect and prejudicial; (3) contain a definite statement of each ground
14 in law or in fact for vacating and setting aside all or any portion of
15 said Order; and (4) contain a concise statement of all directions set out
16 in the Regulatory Order which you genuinely contend are arbitrary,
17 capricious, an abuse of discretion, or otherwise not in accordance with
18 law.

19 C. If you file a late written response to the Regulatory Order,
20 or if you omit entirely filing any written response to said Order, you are
21 subject to being precluded from obtaining adjudicative review regarding
22 said Order.

23 EPA ORDER TO DEVELOP AND IMPLEMENT...

24 D. Under the provisions of the Resource Conservation And Recovery
25 Act ("RCRA"), Respondent may confer with EPA at any time prior to
26 submittal of the proposal ordered in the ORDER TO DEVELOP AND IMPLEMENT A
27 PROPOSAL FOR MONITORING, ANALYSIS, AND TESTING attached hereto, to:
28 comment on the Findings contained therein; provide whatever additional
information Respondent believes relevant to the disposition of this
matter; and/or discuss the preparation of the proposal. The proposal
submitted by Respondent shall be subject to review, modification and
approval by EPA. After submittal of the proposal, Respondent shall be
afforded an opportunity to confer with EPA on a date specified by EPA to
discuss the terms of the proposal. Following this conference and after
review, modification (if any), and approval of the proposal by EPA,
Respondent shall forthwith conduct, carry out, implement and report on the
sampling, analysis, and monitoring program according to its approved terms
and schedules.

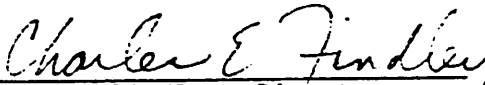
29 E. If EPA determines that Respondent is not able to conduct the
30 activities required in said attached Order (developed pursuant to RCRA
31 §3013) in a satisfactory manner, is not able to conduct the activities
32 contained in the EPA-approved proposal, or if actions carried out are
33 deemed unsatisfactory, then EPA may conduct such actions deemed reasonable
34 by EPA to ascertain the nature and extent of the hazard at the facility.
35 Respondent may then be ordered to reimburse EPA for the costs of such
36 activity pursuant to §3013(d) of RCRA. In addition, or in the
37 alternative, in the event Respondent fails to comply with the terms and
38 provisions of this Order, EPA may commence a civil action to require
39 compliance with such order and to assess a civil penalty of not to exceed
40 \$5,000.00 for each day during which such failure or refusal occurs.

V. INFORMAL SETTLEMENT MEETING

A. An informal settlement meeting to discuss these administrative actions can be held at your request at EPA's offices in Seattle, Washington. You may discuss there: (1) whether any violations alleged in the Regulatory Order truly occurred; (2) The lawfulness of the Regulatory Order and (3) Comment on (and provide additional relevant information on) the Findings in the Order to Develop and Implement A Proposal For Monitoring, Analysis, And Testing. Such a meeting might resolve matters by a settlement which would make a hearing(s) unnecessary.

B. In order to arrange an informal settlement meeting, you must contact Mr. Kenneth D. Feigner, Chief, EPA Region 10 Waste Management Branch, M/S 533, 1200 Sixth Avenue, Seattle, Washington, 98101 at (206) 442-2782 not later than thirty (30) calendar days from receipt hereof.

ISSUED AT SEATTLE, WASHINGTON, this 11th day of July, 1986.


Charles E. Findley, Director
Hazardous Waste Division, EPA

NOTICE OF PROCEEDINGS - Page 3 of 3

RECEIVED

JUL 11 1986

HEARINGS CLERK
EPA-REGION X

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA REGION 10, SEATTLE, WASHINGTON
1200 SIXTH AVENUE, SUITE 1200

United States Environmental Protection Agency,
Complainant,
vs.
Van Waters and Rogers, Division
of Univar Corporation
URD009227398
Respondent.

No. 1086-01-01-3008
COMPLIANCE ORDER

I. JURISDICTION

A. Administrative jurisdiction to issue this Compliance Order exists under 42 U.S.C. §692b.

B. The issuing official is the Complainant, United States Environmental Protection Agency ("EPA").

C. The Respondent is the Van Waters and Rogers, a Division of Univar Corporation ("Respondent") which is the owner and operator of a facility at 3950 NW Yeon Avenue, Portland, Oregon ("the facility").

D. Pursuant to RCRA Section 3008(a), 42 U.S.C. §6926(a), EPA is authorized to take enforcement action regarding activities (within states granted authority to manage hazardous wastes under RCRA §3006, 42 U.S.C.

1 §6926) which constitute violations of any requirement of any applicable
2 federally authorized state program. As the State of Oregon Department of
3 Environmental Quality ("DEQ") received such authorization in January 1986,
4 noncompliance with the requirements imposed by the approved Oregon program
5 constitutes a violation of both state and federal requirements.

6
7 E. EPA has notified the state of Oregon of this action as required
8 under RCRA §3008(a)(2), 42 U.S.C. §6928(a)(2). DEQ has deferred to EPA to
9 initiate this enforcement action pertaining to any of the violations cited
10 in this Order.

11
12 F. On the basis of information received by the Regional Administrator,
13 much of which is set forth below, EPA hereby determines that the
14 Respondent, a "person" within the meaning of 42 U.S.C. §6903(15) has
15 violated (and/or is in violation of) one or more requirements of RCRA
16 Subtitle C, 42 U.S.C. Chapter 82, Subchapter III and the regulations
17 promulgated thereunder.

18
19 II. FINDINGS OF FACT

20 A. On or about September 18, 1980, Respondent submitted to EPA a
21 "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its
22 Portland, Oregon facility located at 3950 NW Yeon Avenue pursuant to RCRA
23 §3010(a), 42 U.S.C. §6930(a) and thereby received EPA identification
24 number ORD 009227398. That notification identified Respondent as the
25 owner and operator of the facility. On or about September 26, 1980,
26 Respondent further submitted Part A of its permit application to EPA

1 identifying Respondent's operation of the facility for the storage and
2 treatment of F001 and F002 listed hazardous wastes. This Part A
3 application was later modified by a July 13, 1981 dated submittal in which
4 the only hazardous waste process identified was storage.

5
6 B. On or about June 4, 1981 Respondent was issued a Hazardous Waste
7 Treatment-Collection Site License (HMTF-5) by the Oregon Department of
8 Environmental Quality. This license, which expired on January 30, 1986,
9 was issued for the following hazardous waste treatment and collection
10 activities:

11 TREATMENT: perchloroethylene; methylene chloride; and 1,1,1
12 trichloroethane; and

13 COLLECTION SITE: toxic hazardous waste; corrosive hazardous waste;
14 and ignitable hazardous waste.

15 C. On or about September 23, 1985 the DEQ issued Respondent a Notice of
16 Violation and Intent to Assess Civil Penalty for, inter alia, having an
17 inadequate closure plan, in that the plan (which is revised by Respondent
18 at an approximate frequency of once per year) did not provide for the
19 maximum inventory of waste in storage as required by 40 CFR §265.112,
20 which is adopted into the Oregon Administrative Rules (OAR) at Chapter
21 340-105-010(6)(b).

22
23 D. Based on EPA's review of Respondent's revised closure plan dated May
24 1986, and DEQ's comments on the plan, the plan does not identify the steps
25 necessary to completely close the facility, in violation of
26 OAR-340-105-010(6)(b) [which in this instance refers to 40 CFR
27 §265.112(a)], as described below:
28

1 1. There is no discussion in the plan on sampling the underlying
2 soils in storage areas where cracks are present in the pad. The
3 statement, "Surface sampling of the area will then be conducted." is
4 the only reference in the plan to confirm that the storage pad will
5 be tested to assure that clean closure has been achieved. If
6 hazardous waste constituents remain after closure, then the facility
7 has failed to achieve clean closure and the hazardous waste
8 remaining must be treated as a land disposal facility subject to
9 closure and post closure requirements as a landfill.

10
11 2. The description of the parameters and sampling procedures to
12 be followed to confirm that releases to soil and/or groundwater have
13 not occurred is also not contained in the plan. Instead, only a
14 reference to Respondent's waste analysis plan is made concerning the
15 analysis and testing of decontamination wash water. This reference
16 does not identify if the analysis to be performed is for all
17 hazardous waste constituents, for example, the parameters listed in
18 Table 4 of Respondent's November 1985 waste analysis plan. Also,
19 there is no discussion in the closure plan concerning action levels
20 for cleanup. For example, since the facility handled listed wastes,
21 the detection of any parameter listed at Table 4 would require
22 additional decontamination and/or waste removal as the constituent
23 detected would be the dilution product of a spill residue of listed
24 hazardous waste and would itself be hazardous.

3. The closure plan contains a statement as follows: "If there is evidence of any spills or leaks from the facility, samples will be taken and analyzed to determine the extent of contamination in the soil and, if necessary, in groundwater." As spills have been identified at the facility by Respondent, the closure plan must include a plan for the monitoring of soil and groundwater to determine the extent of contamination from the past spills. In Respondent's letter dated April 17, 1986 to DEQ, Respondent confirmed at least three (3) spills at the facility. Incident number 1 was a spill of methylene chloride which occurred during a transfer operation on August 15, 1980; the second incident was on September 8, 1983 and involved the spill of approximately 515 gallons of trichloroethylene (TCE); and the third spill is believed to have occurred in 1979 and involved an acid release. This release apparently resulted in the destruction of several hundred feet of sanitary sewer (see letter dated October 25, 1985 from DEQ to Respondent) which was not replaced until 1985.

E. In addition to the deficiencies above, the closure plan does not include an estimate of the expected year of closure nor does it include a schedule for final closure activities, both in violation of OAR-340-105-010(6)(b) which refers to the requirements of 40 CFR §265.112(a)(4) in this case.

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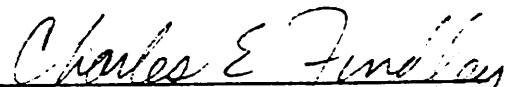
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1 B. All plans, reports, or other submissions required by this Order
2 shall be submitted to Mr. Kenneth D. Feigner, Chief, Waste Management
3 Branch, M/S 533, Environmental Protection Agency, 1200 Sixth Avenue,
4 Seattle, Washington 98101 and to Ms. Jan Whitworth, Manager, Hazardous
5 Waste Section, Department of Environmental Quality, P.O. Box 1760,
6 Portland, Oregon 97207.

7
8 ISSUED at Seattle this 11th day of July, 1986.

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11 

12
13 Charles E. Findley, Director
14 Hazardous Waste Division
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20 REGULATORY ORDER - Page 7
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RECEIVED

JUL 11 1988

HEARINGS OFFICE
EPA - REGION 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF:) RCRA Docket No. 1086-01-01-3013
)
Van Waters and Rogers, Division)
of Univar Corporation) ORDER TO DEVELOP AND
Respondent) IMPLEMENT A PROPOSAL FOR
) MONITORING, ANALYSIS, AND
Proceedings under §3013 of the) TESTING
Resource Conservation and)
Recovery Act, 42 U.S.C. §6934)

PRELIMINARY STATEMENT

This ORDER TO DEVELOP AND IMPLEMENT A PROPOSAL FOR MONITORING, ANALYSIS, AND TESTING is being filed pursuant to §3013 of the Resource Conservation and Recovery Act, as amended [42 U.S.C. §6934] (hereinafter referred to as "the Act").

The authority to issue an Order pursuant to §3013 of the Act is vested in the Administrator who has delegated this authority to the Regional Administrator, who has further delegated this authority to the Director, Hazardous Waste Division, Environmental Protection Agency, Region 10 (hereinafter "EPA"). The RESPONDENT is Van Waters and Rogers, Division of Univar Corporation (hereinafter "Respondent").

ORDER - Page 1

II. FINDINGS OF FACT

1. On or about September 18, 1980, Respondent submitted to EPA a "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its Portland, Oregon facility located at 3950 NW Yeon Avenue (hereinafter called "the facility") pursuant to RCRA §3010(a), 42 U.S.C. §6930(a) and thereby received EPA identification number ORD 009227398. That notification identified Respondent as the owner and operator of the facility. On or about July 13, 1981, Respondent further submitted Part A of its permit application to EPA identifying Respondent's operation of the facility for the storage, treatment and/or disposal of hazardous wastes.

2. On or about June 4, 1981 Respondent was issued a Hazardous Waste Treatment-Collection Site License (HWTF-5) by the Oregon Department of Environmental Quality for the following hazardous waste treatment and collection activities:

TREATMENT: perchloroethylene; methylene chloride; and 1,1,1 trichloroethane; and

COLLECTION SITE: toxic hazardous waste; corrosive hazardous waste; and ignitable hazardous waste.

3. Spills have been identified at the facility both by Respondent and by DEQ. In Respondent's letter dated April 17, 1986 to DEQ, Respondent confirmed at least three (3) spills at the facility. Incident number 1 was a spill of methylene chloride which occurred during a transfer operation on August 15, 1980; the second incident was on September 8, 1983

1 and involved the spill of approximately 515 gallons of trichloroethylene
2 (TCE); and the third spill is believed to have occurred in 1979 and
3 involved an acid release. This release apparently resulted in the
4 destruction of several hundred feet of sanitary sewer (see letter dated
5 October 25, 1985 from DEQ to Respondent) which was not replaced until 1985.

6
7 4. Both methylene chloride and trichloroethylene are listed as
8 hazardous wastes by EPA under 40 CFR Part 261 due to their toxicity.

9
10 5. Based on a preliminary hydrogeological review of the area, over ten
11 (10) groundwater wells are located within approximately one (1) mile of
12 the facility and at least one (1) of these wells supply water for the
13 washing of food products and three (3) serve as domestic water wells.

14
15 6. The facility is located within 1000 feet of the Willamette River,
16 and groundwater is encountered at depths of 85 feet and below beneath
17 Respondent's facility. Based on the very limited data available, this
18 groundwater is overlain by fine grain material (e.g., silts and clays),
19 which if present, would serve to protect the river from groundwater
20 discharge while also remaining permeable in the downward direction to the
21 types of organic compounds allegedly disposed of by Respondent.

22 -
23 III. DETERMINATION

24 Based on the foregoing and on the administrative record, and
25 pursuant to Section 3013 of RCRA, 42 U.S.C. §6934(a)(1) and (2), the
26 Director, Hazardous Waste Division, EPA Region 10, has determined that the

1 presence at and/or release and potential release of hazardous waste from
2 the facility may present a substantial hazard to human health and/or the
3 environment. The Director, Hazardous Waste Division has further
4 determined that the expeditious monitoring, testing, analysis and
5 reporting by Respondent, in accordance with methods and procedures
6 developed and/or approved by EPA for hazardous waste investigations (e.g.,
7 RCRA Groundwater Monitoring Technical Enforcement Guidance Document & Test
8 Methods for the Evaluation of Solid Waste, Physical Chemical Methods) is
9 necessary to ascertain the nature and extent of such hazards as may exist.

10 11 IV. ORDER

12 1. Respondent shall, within 30 days of receipt of this Order:

13
14 a) Submit a proposal for the monitoring, analysis and testing of
15 groundwater and soil at and near the facility sufficient to identify
16 the nature and extent of soil and groundwater contamination from the
17 release of hazardous waste and/or hazardous waste constituents from
18 past spills at the facility.

19
20 b. The Proposal shall identify the steps necessary to: (1) define
21 site geology, physical properties of soils, chemical properties of
22 soils, continuity of saturated zones and confining zones, and depth
23 to uppermost aquifer; (2) define hydraulic parameters for zones to
24 be monitored (e.g., transmissivity, hydraulic conductivity, storage
25 coefficient); (3) define groundwater movement in the site vicinity
26 (e.g., recharge zones, discharge zones, upward vs. downward flow,
27

1 gradient and potentiometric surface); and (4) determine the nature
2 and extent of contamination migration, and direction of flow.

3
4 c. All work shall be performed in accordance with EPA-approved
5 and established Quality Control and Quality Assurance (QA/QC)
6 procedures. Chain of Custody shall be maintained on all samples and
7 the methodology used for sample analysis shall be in accordance with
8 those methods approved by EPA and established for the analysis of
9 hazardous waste and/or hazardous waste constituents. The detection
10 levels selected shall be sufficient to detect background
11 concentrations of the applicable hazardous waste and/or hazardous
12 waste constituents.

13
14 d. The Proposal shall include a schedule for the performance of
15 all the work described and said schedule shall be so developed as to
16 insure an expeditious implementation of the Proposal once approved
17 by EPA.

18
19 2. If any of the work to be undertaken pursuant to this Order is
20 identical to work performed in association with the implementation of a
21 Closure Plan pursuant to 40 CFR Part 265, Subpart G, Respondent may elect
22 to modify the Proposal called for in paragraph 1.a. above to incorporate
23 the approved schedule of closure activities into the schedule for
24 investigatory work required above. However, the initial characterization
25 and monitoring of the underlying soils and aquifer, sufficient to detect
26 if hazardous waste and/or hazardous waste constituents have been released
27

1 into the environment prior to or concurrent with the closure activities of
2 each of these closing units is required. The schedule followed for each
3 such unit would incorporate the schedule of the approved Closure plan
4 while also addressing the initial characterization and monitoring
5 activities described above.

6
7 3. Within 30 days of receipt of EPA's response to Respondents'
8 proposal, Respondents shall modify the proposal as necessary to conform to
9 EPA's comments and shall implement the proposal according to its terms and
10 schedules as approved by EPA. Respondent shall submit to EPA on a
11 bimonthly schedule, progress reports on its activities pursuant to this
12 Order and shall submit a final report, including all supporting data and
13 quality assurance information to EPA within 30 days of project completion.

14
15 4. All reports, plans, proposals and other documents required under
16 this Order shall be submitted to: Jan Whitworth, Manager, Hazardous Waste
17 Section, Department of Environmental Quality, P.O. Box 1760, Portland,
18 Oregon 97207 and to Kenneth Feigner, Chief, Waste Management Branch, U.S.
19 Environmental Protection Agency Region 10, 1200 sixth Ave., Seattle,
20 Washington 98101.

21
22 -V. OPPORTUNITY TO CONFER AND LIABILITY

23 The attached NOTICE OF PROCEEDINGS is incorporated herein in its
24 entirety by this reference. Respondent is hereby advised to review said
25 Notice concerning the opportunity to confer both formally and informally
26 (see paragraph IV.C. and V. of NOTICE OF PROCEEDINGS) and for information
27 concerning Respondent's liability in this matter.

1
2 DATED this 11th day of July, 1986,
3

4 Charles E. Findley
5 Charles E. Findley, Director
6 Hazardous Waste Division
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10 ORDER - Page 7
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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

OK 1318
~~Noted~~
5a
7/7/986

FILE COPY

REPLY TO
ATTN OF: M/S 533

Fred Hansen, Director
Oregon Department of Environmental Quality
522 S.W. Fifth Avenue
Box 1760
Portland, Oregon 97207

Dear Mr. Hansen:

As you requested in your letter dated June 11, 1986, we have reviewed the available information concerning the Van Waters and Rogers facility in Portland, Oregon concerning past spills and facility closure. We concur with your staff's recommendations concerning the closure plan and the need to require the company to investigate past spills. As your letter requested that EPA take the primary compliance role we have prepared an enforcement package for issuance to Van Waters and Rogers.

Section 3008(a)(2) of the Resource Conservation and Recovery Act, requires that we give notice to the Oregon Department of Environmental Quality prior to issuing an administrative order in an authorized state. This letter constitutes that notice. In addition, we also plan to issue a RCRA §3013 administrative order to the company for the investigation of the nature and extent of any hazard that may exist as a result of past releases from the facility.

We hope to work closely with your staff in administering these actions and, as always we are available to work with you and your staff on this and other matters of environmental concern.

Sincerely,

Charles E. Findley, Director
Hazardous Waste Division

Enclosure

bcc:

Charles Rice, EPA
Henry Elsen, EPA

#5196G 7/7/86

RICE

ELSEN

FEIGNER

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4
5 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
6 Region 10
7 1200 Sixth Avenue,
8 Seattle, Washington 98101

9 United States Environmental
10 Protection Agency,
11 vs. Complainant,

12 Van Waters and Rogers, Division
13 of Univar Corporation
14 ORD009227398
15 Respondent

) NOTICE OF LEGAL PROCEEDINGS,
) NOTICE OF OPPORTUNITY FOR
) HEARING: AND NOTICE OF
) OPPORTUNITY FOR SETTLEMENT
) MEETING

) IN REFERENCE TO THE FOLLOWING
) ORDERS:
) EPA No. 1086-01-01-3008
) EPA No. 1086-01-01-3013

16 THE DIRECTOR, HAZARDOUS WASTE DIVISION, EPA REGION 10 TO THE FOLLOWING
17 RESPONDENT: Van Waters and Rogers, Division of Univar

18 YOU ARE HEREBY GIVEN NOTICE AS FOLLOWS:

19 I. Administrative proceedings have been commenced against you. A Regulatory
20 Order is hereby issued to you by the U.S. Environmental Protection Agency
21 ("EPA"), pursuant to the "Consolidated Rules of Practice" (40 CFR Part 22).
22 An order to develop and implement a proposal for monitoring, analysis, and
23 testing is also hereby issued by EPA, pursuant to 42 U.S.C. §6934.

24 II. You are hereby NOTIFIED of, and served with, the ATTACHED TRUE COPIES of
25 documents filed in these proceedings. Both contain governmental commands of
26 EPA which must be obeyed by you. One requires you to comply with the
27 applicable rules and regulations for the closure of your hazardous waste
28 management facility, and the second requires that you carry out such
monitoring, testing, analysis, and reporting as necessary to ascertain the
nature and extent of the hazard that exists at your facility due to the
release and/or presence of hazardous waste at your facility.

NOTICE OF PROCEEDINGS, Page 1 of 3

1 III. The signed originals of the attached documents are filed with the
2 EPA Regional Hearing Clerk, in Room 1802, Park Place Bldg., 1200 Sixth
3 Avenue, Seattle, King County, Washington, 98101, Phone No. (206) 442-1141.

4 IV. APPEAL PROCEDURES

5 EPA REGULATORY ORDER

6 A. If you choose to appeal the Regulatory Order you must file an
7 "ANSWER" with the EPA Hearing Clerk (address above) within 30 days of
8 receipt of the Regulatory Order.

9 B. Any such "ANSWER" you file must: (1) request a hearing to
10 review the Regulatory Order or such a hearing on the Order is deemed
11 waived; (2) contain clear and direct statements of what specified
12 portions, if any, of the determinations in said Order are materially
13 incorrect and prejudicial; (3) contain a definite statement of each ground
14 in law or in fact for vacating and setting aside all or any portion of
15 said Order; and (4) contain a concise statement of all directions set out
16 in the Regulatory Order which you genuinely contend are arbitrary,
17 capricious, an abuse of discretion, or otherwise not in accordance with
18 law.

19 C. If you file a late written response to the Regulatory Order,
20 or if you omit entirely filing any written response to said Order, you are
21 subject to being precluded from obtaining adjudicative review regarding
22 said Order.

23 EPA ORDER TO DEVELOP AND IMPLEMENT...

24 D. Under the provisions of the Resource Conservation And Recovery
25 Act ("RCRA"), Respondent may confer with EPA at any time prior to
26 submittal of the proposal ordered in the ORDER TO DEVELOP AND IMPLEMENT A
27 PROPOSAL FOR MONITORING, ANALYSIS, AND TESTING attached hereto, to:
28 comment on the Findings contained therein; provide whatever additional
information Respondent believes relevant to the disposition of this
matter; and/or discuss the preparation of the proposal. The proposal
submitted by Respondent shall be subject to review, modification and
approval by EPA. After submittal of the proposal, Respondent shall be
afforded an opportunity to confer with EPA on a date specified by EPA to
discuss the terms of the proposal. Following this conference and after
review, modification (if any), and approval of the proposal by EPA,
Respondent shall forthwith conduct, carry out, implement and report on the
sampling, analysis, and monitoring program according to its approved terms
and schedules.

29 E. If EPA determines that Respondent is not able to conduct the
30 activities required in said attached Order (developed pursuant to RCRA
31 §3013) in a satisfactory manner, is not able to conduct the activities
32 contained in the EPA-approved proposal, or if actions carried out are
33 deemed unsatisfactory, then EPA may conduct such actions deemed reasonable
34 by EPA to ascertain the nature and extent of the hazard at the facility.
35 Respondent may then be ordered to reimburse EPA for the costs of such
36 activity pursuant to §3013(a) of RCRA. In addition, or in the
37 alternative, in the event Respondent fails to comply with the terms and
38 provisions of this Order, EPA may commence a civil action to require
39 compliance with such order and to assess a civil penalty of not to exceed
40 \$5,000.00 for each day during which such failure or refusal occurs.

V. INFORMAL SETTLEMENT MEETING

A. An informal settlement meeting to discuss these administrative actions can be held at your request at EPA's offices in Seattle, Washington. You may discuss there: (1) whether any violations alleged in the Regulatory Order truly occurred; (2) The lawfulness of the Regulatory Order and (3) Comment on (and provide additional relevant information on) the Findings in the Order to Develop and Implement A Proposal For Monitoring, Analysis, And Testing. Such a meeting might resolve matters by a settlement which would make a hearing(s) unnecessary.

B. In order to arrange an informal settlement meeting, you must contact Mr. Kenneth D. Feigner, Chief, EPA Region 10 Waste Management Branch, M/S 533, 1200 Sixth Avenue, Seattle, Washington, 98101 at (206) 442-2782 not later than thirty (30) calendar days from receipt hereof.

ISSUED AT SEATTLE, WASHINGTON, this _____ day of _____, 1986.

Charles E. Findley, Director
Hazardous Waste Division, EPA

NOTICE OF PROCEEDINGS - Page 3 of 3

1 §6926) which constitute violations of any requirement of any applicable
2 federally authorized state program. As the State of Oregon Department of
3 Environmental Quality ("DEQ") received such authorization in January 1986,
4 noncompliance with the requirements imposed by the approved Oregon program
5 constitutes a violation of both state and federal requirements.

6
7 E. EPA has notified the state of Oregon of this action as required
8 under RCRA §3008(a)(2), 42 U.S.C. §6928(a)(2). DEQ has deferred to EPA to
9 initiate this enforcement action pertaining to any of the violations cited
10 in this Order.

11
12 F. On the basis of information received by the Regional Administrator,
13 much of which is set forth below, EPA hereby determines that the
14 Respondent, a "person" within the meaning of 42 U.S.C. §6903(15) has
15 violated (and/or is in violation of) one or more requirements of RCRA
16 Subtitle C, 42 U.S.C. Chapter 82, Subchapter III and the regulations
17 promulgated thereunder.

18
19 II. FINDINGS OF FACT

20 A. On or about September 18, 1980, Respondent submitted to EPA a
21 "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its
22 Portland, Oregon facility located at 3950 NW Yeon Avenue pursuant to RCRA
23 §3010(a), 42 U.S.C. §6930(a) and thereby received EPA identification
24 number ORD 009227398. That notification identified Respondent as the
25 owner and operator of the facility. On or about September 26, 1980,
26 Respondent further submitted Part A of its permit application to EPA

1 identifying Respondent's operation of the facility for the storage and
2 treatment of F001 and F002 listed hazardous wastes. This Part A
3 application was later modified by a July 13, 1981 dated submittal in which
4 the only hazardous waste process identified was storage.

5
6 B. On or about June 4, 1981 Respondent was issued a Hazardous Waste
7 Treatment-Collection Site License (HWTF-5) by the Oregon Department of
8 Environmental Quality. This license, which expired on January 30, 1986,
9 was issued for the following hazardous waste treatment and collection
10 activities:

11 TREATMENT: perchloroethylene; methylene chloride; and 1,1,1
12 trichloroethane; and

13 COLLECTION SITE: toxic hazardous waste; corrosive hazardous waste;
14 and ignitable hazardous waste.

15 C. On or about September 23, 1985 the DEQ issued Respondent a Notice of
16 Violation and Intent to Assess Civil Penalty for, inter alia, having an
17 inadequate closure plan, in that the plan (which is revised by Respondent
18 at an approximate frequency of once per year) did not provide for the
19 maximum inventory of waste in storage as required by 40 CFR §265.112,
20 which is adopted into the Oregon Administrative Rules (OAR) at Chapter
21 340-105-010(6)(b).

22
23 D. Based on EPA's review of Respondent's revised closure plan dated May
24 1986, and DEQ's comments on the plan, the plan does not identify the steps
25 necessary to completely close the facility, in violation of
26 OAR-340-105-010(6)(b) [which in this instance refers to 40 CFR
27 §265.112(a)], as described below:
28

1 1. There is no discussion in the plan on sampling the underlying
2 soils in storage areas where cracks are present in the pad. The
3 statement, "Surface sampling of the area will then be conducted." is
4 the only reference in the plan to confirm that the storage pad will
5 be tested to assure that clean closure has been achieved. If
6 hazardous waste constituents remain after closure, then the facility
7 has failed to achieve clean closure and the hazardous waste
8 remaining must be treated as a land disposal facility subject to
9 closure and post closure requirements as a landfill.

10
11 2. The description of the parameters and sampling procedures to
12 be followed to confirm that releases to soil and/or groundwater have
13 not occurred is also not contained in the plan. Instead, only a
14 reference to Respondent's waste analysis plan is made concerning the
15 analysis and testing of decontamination wash water. This reference
16 does not identify if the analysis to be performed is for all
17 hazardous waste constituents, for example, the parameters listed in
18 Table 4 of Respondent's November 1985 waste analysis plan. Also,
19 there is no discussion in the closure plan concerning action levels
20 for cleanup. For example, since the facility handled listed wastes,
21 the detection of any parameter listed at Table 4 would require
22 additional decontamination and/or waste removal as the constituent
23 detected would be the dilution product of a spill residue of listed
24 hazardous waste and would itself be hazardous.

1 3. The closure plan contains a statement as follows: "If there is
2 evidence of any spills or leaks from the facility, samples will be
3 taken and analyzed to determine the extent of contamination in the
4 soil and, if necessary, in groundwater." As spills have been
5 identified at the facility by Respondent, the closure plan must
6 include a plan for the monitoring of soil and groundwater to
7 determine the extent of contamination from the past spills. In
8 Respondent's letter dated April 17, 1986 to DEQ, Respondent
9 confirmed at least three (3) spills at the facility. Incident
10 number 1 was a spill of methylene chloride which occurred during a
11 transfer operation on August 15, 1980; the second incident was on
12 September 8, 1983 and involved the spill of approximately 515
13 gallons of trichloroethylene (TCE); and the third spill is believed
14 to have occurred in 1979 and involved an acid release. This release
15 apparently resulted in the destruction of several hundred feet of
16 sanitary sewer (see letter dated October 25, 1985 from DEQ to
17 Respondent) which was not replaced until 1985.

18
19 E. In addition to the deficiencies above, the closure plan does not
20 include an estimate of the expected year of closure nor does it include a
21 schedule for final closure activities, both in violation of
22 OAR-340-105-010(6)(b) which refers to the requirements of 40 CFR
23 §265.112(a)(4) in this case.

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25 REGULATORY ORDER - Page 5
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terminations

1 B. All plans, reports, or other submissions required by this Order
2 shall be submitted to Mr. Kenneth D. Feigner, Chief, Waste Management
3 Branch, M/S 533, Environmental Protection Agency, 1200 Sixth Avenue,
4 Seattle, Washington 98101 and to Ms. Jan Whitworth, Manager, Hazardous
5 Waste Section, Department of Environmental Quality, P.O. Box 1760,
6 Portland, Oregon 97207.

7
8 ISSUED at Seattle this _____ day of _____, 1986.
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13 Charles E. Findley, Director
14 Hazardous Waste Division
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20 REGULATORY ORDER - Page 7
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4
5 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
6 Region 10
7 1200 Sixth Avenue
8 Seattle, Washington 98101

9 IN THE MATTER OF:) RCRA Docket No. 1086-01-01-3013
10)
11 Van Waters and Rogers, Division)
12 of Univar Corporation) ORDER TO DEVELOP AND
13 Respondent) IMPLEMENT A PROPOSAL FOR
14) MONITORING, ANALYSIS, AND
15) TESTING
16 Proceedings under §3013 of the)
17 Resource Conservation and)
18 Recovery Act, 42 U.S.C. §6934)
19)

20 PRELIMINARY STATEMENT

21 This ORDER TO DEVELOP AND IMPLEMENT A PROPOSAL FOR MONITORING, ANALYSIS,
22 AND TESTING is being filed pursuant to §3013 of the Resource Conservation
23 and Recovery Act, as amended [42 U.S.C. §6934] (hereinafter referred to as
24 "the Act").
25

26 The authority to issue an Order pursuant to §3013 of the Act is
27 vested in the Administrator who has delegated this authority to the
28 Regional Administrator, who has further delegated this authority to the
Director, Hazardous Waste Division, Environmental Protection Agency,
Region 10 (hereinafter "EPA"). The RESPONDENT is Van Waters and Rogers,
Division of Univar Corporation (hereinafter "Respondent").

II. FINDINGS OF FACT

1
2 1. On or about September 18, 1980, Respondent submitted to EPA a
3 "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its
4 Portland, Oregon facility located at 3950 NW Yeon Avenue (hereinafter
5 called "the facility") pursuant to RCRA §3010(a), 42 U.S.C. §6930(a) and
6 thereby received EPA identification number ORD 009227398. That
7 notification identified Respondent as the owner and operator of the
8 facility. On or about July 13, 1981, Respondent further submitted Part A
9 of its permit application to EPA identifying Respondent's operation of the
10 facility for the storage, treatment and/or disposal of hazardous wastes.

11
12 2. On or about June 4, 1981 Respondent was issued a Hazardous Waste
13 Treatment-Collection Site License (HMTF-5) by the Oregon Department of
14 Environmental Quality for the following hazardous waste treatment and
15 collection activities:

16
17 TREATMENT: perchloroethylene; methylene chloride; and 1,1,1
18 trichloroethane; and

19
20 COLLECTION SITE: toxic hazardous waste; corrosive hazardous waste;
21 and ignitable hazardous waste.

22 .
23 3. Spills have been identified at the facility both by Respondent and
24 by DEQ. In Respondent's letter dated April 17, 1986 to DEQ, Respondent
25 confirmed at least three (3) spills at the facility. Incident number 1
26 was a spill of methylene chloride which occurred during a transfer
27 operation on August 15, 1980; the second incident was on September 8, 1983
28

1 and involved the spill of approximately 515 gallons of trichloroethylene
2 (TCE); and the third spill is believed to have occurred in 1979 and
3 involved an acid release. This release apparently resulted in the
4 destruction of several hundred feet of sanitary sewer (see letter dated
5 October 25, 1985 from DEQ to Respondent) which was not replaced until 1985.

6
7 4. Both methylene chloride and trichloroethylene are listed as
8 hazardous wastes by EPA under 40 CFR Part 261 due to their toxicity.

9
10 5. Based on a preliminary hydrogeological review of the area, over ten
11 (10) groundwater wells are located within approximately one (1) mile of
12 the facility and at least one (1) of these wells supply water for the
13 washing of food products and three (3) serve as domestic water wells.

14
15 6. The facility is located within 1000 feet of the Willamette River,
16 and groundwater is encountered at depths of 85 feet and below beneath
17 Respondent's facility. Based on the very limited data available, this
18 groundwater is overlain by fine grain material (e.g., silts and clays),
19 which if present, would serve to protect the river from groundwater
20 discharge while also remaining permeable in the downward direction to the
21 types of organic compounds allegedly disposed of by Respondent.

22 23 III. DETERMINATION

24 Based on the foregoing and on the administrative record, and
25 pursuant to Section 3013 of RCRA, 42 U.S.C. §6934(a)(1) and (2), the
26 Director, Hazardous Waste Division, EPA Region 10, has determined that the

1 presence at and/or release and potential release of hazardous waste from
2 the facility may present a substantial hazard to human health and/or the
3 environment. The Director, Hazardous Waste Division has further
4 determined that the expeditious monitoring, testing, analysis and
5 reporting by Respondent, in accordance with methods and procedures
6 developed and/or approved by EPA for hazardous waste investigations (e.g.,
7 RCRA Groundwater Monitoring Technical Enforcement Guidance Document & Test
8 Methods for the Evaluation of Solid Waste, Physical Chemical Methods) is
9 necessary to ascertain the nature and extent of such hazards as may exist.

11 IV. ORDER

12 1. Respondent shall, within 30 days of receipt of this Order:

13
14 a) Submit a proposal for the monitoring, analysis and testing of
15 groundwater and soil at and near the facility sufficient to identify
16 the nature and extent of soil and groundwater contamination from the
17 release of hazardous waste and/or hazardous waste constituents from
18 past spills at the facility.

19
20 b. The Proposal shall identify the steps necessary to: (1) define
21 site geology, physical properties of soils, chemical properties of
22 soils, continuity of saturated zones and confining zones, and depth
23 to uppermost aquifer; (2) define hydraulic parameters for zones to
24 be monitored (e.g., transmissivity, hydraulic conductivity, storage
25 coefficient); (3) define groundwater movement in the site vicinity
26 (e.g., recharge zones, discharge zones, upward vs. downward flow,
27

1 gradient and potentiometric surface); and (4) determine the nature
2 and extent of contamination migration, and direction of flow.

3
4 c. All work shall be performed in accordance with EPA-approved
5 and established Quality Control and Quality Assurance (QA/QC)
6 procedures. Chain of Custody shall be maintained on all samples and
7 the methodology used for sample analysis shall be in accordance with
8 those methods approved by EPA and established for the analysis of
9 hazardous waste and/or hazardous waste constituents. The detection
10 levels selected shall be sufficient to detect background
11 concentrations of the applicable hazardous waste and/or hazardous
12 waste constituents.

13
14 d. The Proposal shall include a schedule for the performance of
15 all the work described and said schedule shall be so developed as to
16 insure an expeditious implementation of the Proposal once approved
17 by EPA.

18
19 2. If any of the work to be undertaken pursuant to this Order is
20 identical to work performed in association with the implementation of a
21 Closure Plan pursuant to 40 CFR Part 265, Subpart G, Respondent may elect
22 to modify the Proposal called for in paragraph 1.a. above to incorporate
23 the approved schedule of closure activities into the schedule for
24 investigatory work required above. However, the initial characterization
25 and monitoring of the underlying soils and aquifer, sufficient to detect
26 if hazardous waste and/or hazardous waste constituents have been released

1 into the environment prior to or concurrent with the closure activities of
2 each of these closing units is required. The schedule followed for each
3 such unit would incorporate the schedule of the approved Closure plan
4 while also addressing the initial characterization and monitoring
5 activities described above.

6
7 3. Within 30 days of receipt of EPA's response to Respondents'
8 proposal, Respondents shall modify the proposal as necessary to conform to
9 EPA's comments and shall implement the proposal according to its terms and
10 schedules as approved by EPA. Respondent shall submit to EPA on a
11 bimonthly schedule, progress reports on its activities pursuant to this
12 Order and shall submit a final report, including all supporting data and
13 quality assurance information to EPA within 30 days of project completion.

14
15 4. All reports, plans, proposals and other documents required under
16 this Order shall be submitted to: Jan Whitworth, Manager, Hazardous Waste
17 Section, Department of Environmental Quality, P.O. Box 1760, Portland,
18 Oregon 97207 and to Kenneth Feigner, Chief, Waste Management Branch, U.S.
19 Environmental Protection Agency Region 10, 1200 sixth Ave., Seattle,
20 Washington 98101.

21 22 V. OPPORTUNITY TO CONFER AND LIABILITY

23 The attached NOTICE OF PROCEEDINGS is incorporated herein in its
24 entirety by this reference. Respondent is hereby advised to review said
25 Notice concerning the opportunity to confer both formally and informally
26 (see paragraph IV.C. and V. of NOTICE OF PROCEEDINGS) and for information
27 concerning Respondent's liability in this matter.

1
2 DATED this _____ day of _____, 1986,
3
4

5 _____
6 Charles E. Findley, Director
7 Hazardous Waste Division
8
9

10 ORDER - Page 7
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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

CR 7398
11-26-86
5a

November 26, 1986

REPLY TO
ATTN OF: M/S 613

Scott Vokey, Attorney
Shidler, McBroom, Gates & Lucas
3500 First Interstate Center
Seattle, Washington 98104

Re: EPA v. Van Waters & Rogers, a Division of Univar Corporation,
RCRA Docket No. 1086-01-01-3008

Dear Scott:

This letter is a followup to our telephone conversation of November 21, 1986.

In that conversation, I indicated that EPA would be unable to provide written comments on the closure plan until final review by the state of Oregon. I told you that EPA would make every effort to get comments to you by early in the week of December 1, 1986. I indicated that the initial review indicated that the primary concerns identified in the complaint were addressed adequately by the new plan, but that some recent revisions to RCRA regulations may require some revision to the plan.

I would like to propose the following schedule for settling this matter.

December 1-3	EPA/Oregon comments on closure plan sent to Van Waters.
December 8-12	Response to comments by Van Waters-- conference if necessary.
December 15-19	Revise final plan, incorporating comments submitted by EPA/DEQ, and submit to EPA/DEQ.
January 5	Draft consent agreement and final order from EPA to Van Waters for review, ordering implementation of the revised closure plan after formal approval by DEQ.
January 15	Final consent agreement and final order signed by all parties. This should conclude the action before ALJ Yost.

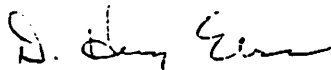
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COPY

Of course, EPA and DEQ will submit the revised plan for public comment before formal approval will be given, pursuant to 40 CFR §265.112(d). I anticipate formal approval to occur sometime in the spring of '87. At that point, Van Waters would be required to implement the formally approved plan.

In addition, EPA is reviewing the proposal for the Section 3013 order submitted by Van Waters. Comments on that proposal should be available within the next 20 days.

Thank you for your cooperation in these matters. Please contact me at (206) 442-1191 with any questions or comments on this matter.

Sincerely,



D. Henry Elsen
Assistant Regional Counsel

cc: Brett McKnight, DEQ
Janet Gillespie, DEQ

FILE COPY

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)	NOTICE OF VIOLATION AND
OF THE STATE OF OREGON,)	INTENT TO ASSESS CIVIL PENALTY
)	No. HW-NWR-85-117
Department,)	MULTNOMAH COUNTY
v.)	
)	
UNIVAR CORPORATION,)	
a Delaware corporation,)	
DBA/VAN WATERS & ROGERS,)	
)	
Respondent.)	

I

This notice is being sent to Respondent, Univar Corporation, a Delaware corporation, doing business as Van Waters & Rogers, pursuant to Oregon Revised Statutes (ORS) 468.125(1), ORS Chapter 459, and Oregon Administrative Rules (OAR) Section 340-12-040(1) and (2).

II

Respondent operates a hazardous waste management facility located at 3950 N.W. Yeon Avenue, Portland, Oregon. Respondent is registered with the Department under EPA Identification No. ORD 009227378.

III

On June 4, 1981, the Department issued Treatment Site License and Collection (Storage) Site License No. HWTF-5 (License) to Respondent. The License authorized Respondent to establish, operate, and maintain facilities for collecting, storing and treating hazardous waste in conformance with the conditions of the License and applicable rules. The License expires on January 30, 1986. At all material times cited herein, the License was and is now in effect.

///

1 IV

2 On May 13, 1985, the Department conducted a hazardous waste compliance
3 inspection at Respondent's facility and found that Respondent violated
4 conditions of the License and the Department's rules, as follows:

5 A. Respondent violated General Condition A6 of the License by not
6 maintaining at the site the following plans and procedures adequate to
7 demonstrate compliance with 40 CFR Part 265 of the Resource Conservation
8 and Recovery Act (RCRA). Specifically:

9 1. Respondent's waste analysis plan did not meet the requirements of
10 40 CFR 265.13 in that the plan did not specify:

11 a. The parameters for which each hazardous waste will be analyzed
12 and the rationale for the selection of these parameters. 40 CFR 265.13(b)(1).

13 b. The test methods which will be used to test for the parameters.
14 40 CFR 265.13(b)(2).

15 c. The frequency with which the initial analysis of the waste will
16 be reviewed or repeated to ensure that the analysis is accurate and up-to-
17 date. 40 CFR 265.13(b)(4).

18 d. The procedures which will be used to inspect and, if necessary,
19 analyze each movement of hazardous waste received at the facility to ensure
20 that it matches the identity of the waste designated on the accompanying
21 manifest or shipping paper. 40 CFR 265.13(c).

22 ///

23 ///

24 ///

25 ///

26 ///

2. Respondent's inspection schedule plan and log did not meet the requirements of 40 CFR 265.15 in that:

a. The plan did not include a schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that are important to preventing, detecting, or responding to environmental or human health hazards. 40 CFR 265.15(b)(1).

b. The schedule did not identify the types of problems which are to be looked for during the inspection. 40 CFR 265.15(b)(3).

c. The schedule did not include, at a minimum, the items and frequencies called for in Sections 265.174 and 265.194. 40 CFR 265.15(b)(4).

d. Respondent did not record inspections in an inspection log or summary which at a minimum includes the date and time of inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial action. 40 CFR 265.15(d).

3. Respondent's contingency plan and emergency procedures did not meet the requirements of 40 CFR 265 Subpart D in that:

a. The plan did not describe the actions facility personnel must take to comply with Sections 265.51 and 265.56 in response to any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil or surface water. 40 CFR 265.52(a).

b. The plan did not describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, pursuant to Section 265.37. 40 CFR 265.52(c).

///

///

1 c. The plan did not include a list of all emergency equipment
2 including the location and physical description of each item and a brief
3 outline of its capabilities. 40 CFR 265.52(e).

4 d. The plan did not include an evacuation plan for facility
5 personnel describing evacuation and alternate routes. 40 CFR 265.52(f).

6 4. Respondent's personnel training procedures and log do not meet
7 the requirements of 40 CFR 265.16 in that they did not include:

8 a. Procedures for using, inspecting, repairing, and replacing
9 facility emergency and monitoring equipment. 40 CFR 265.16(a)(3)(i).

10 b. Key parameters for automatic waste feed cut-off systems.
11 40 CFR 265.16(a)(3)(ii).

12 c. Response to ground water contamination incidents.
13 40 CFR 265.16(a)(3)(v).

14 d. Documentation that facility personnel have taken part in an
15 annual review of the initial training required in Paragraph (a) of Section
16 265.16. 40 CFR 265.16(c).

17 e. The documents and records required to be maintained at the
18 facility:

19 (1) The job title for each position at the facility related to
20 hazardous waste management, and the name of the employee filling each job.
21 40 CFR 265.16 (d)(1).

22 (2) A written position description for each position listed under
23 Paragraph (d)(1) of Section 265.16. 40 CFR 265.16(d)(2).

24 (3) A written description of the type and amount of both introductory
25 and continuing training that will be given to each person filling a
26 position listed under paragraph (d)(1) of Section 265.16. 40 CFR 265.16(d)(3).

1 (4) Records that document that the training or job experience
2 required under paragraphs (a)(b) and (c) of Section 265.16 has been given
3 to, and completed by, facility personnel. 40 CFR 265.16(d)(4).

4 5. Respondent's closure plan does not adequately meet the
5 requirements of 40 CFR 265.112 as the plan underestimates the maximum
6 inventory of waste in storage and in treatment at any time during the life
7 of the facility. Respondent's plan states that 165 drums would be disposed
8 of and 1,300 drums would be distilled and the products sold or returned
9 back to customers. The plan represents a "best case" rather than a "worse"
10 case closure. The plan does not address events that could happen to
11 prevent the waste from being recycled and returned back to the customers.
12 The plan does not provide documentation to support the estimates of how
13 much waste would likely be recycled and returned.

14 B. Respondent violated OAR 340-104-035 (40 CFR 265.35 is now applicable)
15 by not maintaining aisle space in the containerized hazardous waste storage area
16 to allow the unobstructed movement of personnel, fire protection equipment,
17 spill control equipment, and decontamination equipment in any emergency.

18 C. The Department observed several leaking drums in the
19 containerized hazardous waste storage area. Respondent violated OAR
20 340-104-171 (40 CFR 265.171 is now applicable) in that Respondent did not
21 transfer hazardous waste from leaking containers to containers in good
22 condition.

23 ///

24 ///

25 ///

26 ///

1 D. In or before May, 1985, Respondent did not transfer to an EPA or
2 state authorized disposal site any untreatable waste residue within 15 days
3 of accumulation of one hundred five (105) 55-gallon barrels of ignitable,
4 corrosive, or toxic wastes on-site, in violation of Condition B17 of the
5 License.

6 E. The Department observed six containers located near the still
7 which contained still bottoms. Respondent told Department that these
8 wastes were being managed as waste generated by Respondent. On one of
9 these six containers, Respondent did not:

10 1. Mark the date on that container upon which the period of
11 accumulation began, in violation of OAR 340-102-034(1)(c) (40 CFR 262.34(a)(2)
12 is now applicable).

13 2. Label or mark that container with the words "Hazardous Waste," in
14 violation of OAR 340-102-034(1)(d) (40 CFR 262.34(a)(3) is now applicable).

15 F. The Department reviewed a sample of manifests that Respondent prepared
16 pursuant to OAR 340-104-71(3) (40 CFR 265.71(c) is now applicable). Respondent
17 violated OAR 340-102-020(1) (now OAR 340-102-060) by failing to prepare the
18 manifests listed below according to the instructions given in Appendix I to OAR,
19 Chapter 340, Division 102 (now CFR 262 Appendix):

20 1. Manifest Document No. 5985.

21 a. Item 11. Proper hazardous class is flammable liquid, not
22 flammable as described.

23 b. Item 13. The total quantity of waste described in line "a" had not
24 been entered.

25 ///

26 ///

1 2. Manifest Document No. 00389.

2 a. Item 13. The total quantity of waste described in line "a" had not

3 been entered.

4 b. Item 14. The appropriate abbreviation for the unit of measure had not

5 been entered.

6 3. Manifest Document No. 83347622.

7 a. The manifest document number was not a five digit number.

8 b. The generator identification number was incorrect.

9 c. The proper shipping name was incomplete, abbreviations were used

10 and the reportable quantity was not included.

11 4. Manifest Document No. 110784.

12 a. The manifest document number was not a five digit number.

13 b. Item 11(a). The waste shipping name was listed as hazardous waste

14 liquid NOS which was inconsistent with the EPA waste number listed as F001 in

15 Item I.

16 5. Manifest Document No. 83347625.

17 a. The manifest document number was not a five digit number.

18 b. The proper shipping name was incomplete, abbreviations were used and

19 the reportable quantity was not included.

20 6. Manifest Document No. 5808.

21 a. Item 1. This block was left blank.

22 b. Item 11(b). The words "material from VWR Kent" were not relevant to

23 the information required in this block.

24 c. Item 11(b). The word "Freon" was hand written in this block. This was

25 not the proper shipping name.

26 ///


1 7. Manifest Document No. 5863

2 a. Item 11(a). Reportable quantity was not included as part of the
3 proper shipping name.

4 V

5 If five (5) or more days after Respondent receives this notice, the
6 one or more violations cited in Paragraph IV of this notice continue, or
7 any similar violation occurs, the Department will impose upon Respondent a
8 civil penalty pursuant to Oregon statutes and OAR, Chapter 340, Divisions
9 11 and 12. In the event that a civil penalty is imposed upon Respondent,
10 it will be assessed by a subsequent written notice, pursuant to ORS
11 468.135(1) and (2), ORS 183.415(1) and (2), and OAR 340-11-100 and
12 340-12-070. Respondent will be given an opportunity for a contested case
13 hearing to contest the allegations and penalty assessed in that notice,
14 pursuant to ORS 468.135(2) and (3), ORS Chapter 183, and OAR Chapter 340,
15 Division 11. Respondent is not entitled to a contested case hearing at
16 this time.

17
18
19 Sept. 23, 1985
Date


Fred M. Bolton, Administrator
Regional Operations, DEQ

20
21
22
23 Certified Mail P 610 638 692
24
25
26

5

Van Waters & Rogers
division of **Univar**

OR 7378
10.8.82
5a

P. O. BOX 10287
PORTLAND, OREGON 97210
PHONE (503) 222-1721

FILE COPY

RECEIVED
Dept. of Environmental Quality
OCT 11 1982

October 8, 1982

Mr. Bill Hartford
Department of Environmental Quality
522 S.W. 5th Avenue
P.O. Box 1760
Portland, OR 97207

Dear Mr. Hartford,

Enclosed you will find paperwork for the Quarterly Report of
Hazardous Waste Disposal for the months of July thru September.

If you have any questions, please feel free to call.

Sincerely,

VAN WATERS & ROGERS

Helena Knight
Helena Knight
Industrial Chemical Dept.

HK:tt
Encl.

VAN WATERS & ROGERS
QUARTERLY REPORT OF HAZARDOUS DISPOSAL

Generator Name: Van Waters & Rogers
Address: 3950 N.W. Yeon Avenue
Portland, Oregon 97210
Phone: (503) 222-1721
ID Number: ORD09227398

Date: 7-6-82
Manifest#: 02-4-14195
Description: Ammonium Hydroxide Soln.
Transportation: VWR Truck *— #?*
Date Received: 7-6-82
Disposal Site: ~~Hunt-Chemical~~ *— ID #*
Discrepancies: ~~address~~

Date: 7-9-82
Manifest#: 43351
Description: Waste Water Containing Trichloroethylene
Transportation: Matlack *#?*
Date Received: 7-9-82
Disposal Site: Chem Security, 39,020 lb. *OK*
Discrepancies:
Wacker Manifest: 070682-A, 49780 lb.

Date: 7-22-82
Manifest#: 43360
Description: Waste Water Containing Trichloroethylene
Transportation: Widing
Date Received: 7-22-82
Disposal Site: Chem Security, 41,400 lb. *OK*
Discrepancies:
Wacker Manifest: 072082-A, 50,300 lb.

Date: 7-28-82
Manifest#: 43356, 58,57,61,62,63
Description: Mixed Load of Drummed Waste
Transportation: VWR Truck #13
Date Received: 7-28-82
Disposal Site: Chem Security
Discrepancies:

Date: 8-4-82
Manifest#: 43365
Description: Waste Water Containing Trichloroethylene
Transportation: Widing
Date Received: 8-4-82
Disposal Site: Chem Security, 44,540 lb.
Discrepancies:
Wacker Manifest: 080282-A, 44,540 lb.

VAN WATERS & ROGERS
QUARTERLY REPORT OF HAZARDOUS DISPOSAL

Generator Name: Van Waters & Rogers
Address: 3950 N.W. Yeon Avenue
Portland, Oregon 97210
Phone: (503) 222-1721
ID Number: OR009227398

Date: 8-16-82
Manifest#: 43367
Description: Waste Water Containing Trichloroethylene
Transportation: Matlack
Date Received: 8-16-82 *ok*
Disposal Site: Chem Security, 30340 1b
Discrepancies:
Wacker Manifest: 081182-A, 48200 1b.

Date: 8-18-82
Manifest#: 43366
Description: Waste Water Containing Trichloroethylene *ok*
Transportation: Widing
Date Received: 8-18-82
Disposal Site: Chem Security, 48,300 1b
Discrepancies:
Wacker Manifest: 081382-A, 50260 1b

Date: 8-18-82
Manifest#: CM 02-9456
Description: Freon Spent
Transportation: VWR Truck
Date Received: 8-18-82
Disposal Site: McClary Columbia
Discrepancies:

Date: 8-19-82
Manifest#: 02-09-1676
Description: Waste Freon
Transportation: VWR Truck
Date Received: 8-19-82
Disposal Site: McClary Columbia
Discrepancies:

Date: 9-7-82
Manifest#: 02-4-13942
Description: Ammonium Hydroxide Soln.
Transportation: VWR Truck
Date Received: 9-8-82
Disposal Site: Hunt Chemical
Discrepancies:

VAN WATERS & ROGERS
QUARTERLY REPORT OF HAZARDOUS DISPOSAL

Generator Name: Van Waters & Rogers
Address: 3950 N.W. Yeon Avenue
Portland, Oregon 97210
Phone: (503)222-1721
ID Number: OR009227398

Date: 9-20-82
Manifest#: 43368, 69 *ok*
Description: Mixed Load of Drummed Waste
Transportation: VWR Truck
Date Received: 9-20-82
Disposal Site: Chem Security
Discrepancies:

Date: 9-28-82
Manifest#: 02-14143, 44
Description: Ammonium Hydroxide Soln
Transportation: VWR Truck
Date Received: 9-28-82
Disposal Site: ~~Hunt Chemical~~
Discrepancies:

Date:
Manifest#:
Description:
Transportation:
Date Received:
Disposal Site:
Discrepancies:

Date:
Manifest#:
Description:
Transportation:
Date Received:
Disposal Site:
Discrepancies:

Date:
Manifest#:
Description: *→ QUANTITY, NUMBER AND TYPES OF*
Transportation: *CONTAINERS, PHYSICAL STATE & CLASSIFICATION*
Date Received: *→ ID #*
Disposal Site:
Discrepancies: